

(5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions.

(6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client; after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note-taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note-taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption.

(7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under § 541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies.

(8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common-carrier and other transportation facilities, negotiating with carriers for adjustments for damages to merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit, is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work.

(9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants.

(10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

§ 541.704 Use of manuals.

The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures de-

scribed in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

§ 541.705 Trainees.

The executive, administrative, professional, [outside sales] and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, [outside sales] or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, [outside sales] or computer employee.

§ 541.706 Emergencies.

(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

(b) An "emergency" does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work:

(1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive.

(2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work.

(3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly.

(4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

§ 541.707 Occasional tasks.

Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

§ 541.708 Combination exemptions.

Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, [outside sales] and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words,

work that is exempt under one section of this part will not defeat the exemption under any other section.

§ 541.709 Motion picture producing industry.

The requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$1,043 per week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C, or D of this part, and who is employed at a base rate of at least the applicable current minimum amount a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances:

(a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least the minimum weekly amount if 6 days were worked; or

(b) The employee is in a job category having the minimum weekly base rate and the daily base rate is at least one-sixth of such weekly base rate.]

§ 541.710 Employees of public agencies.

(a) An employee of a public agency who otherwise meets the salary basis requirements of § 541.602 shall not be disqualified from exemption under §§ 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because:

(1) Permission for its use has not been sought or has been sought and denied;

(2) Accrued leave has been exhausted; or

(3) The employee chooses to use leave without pay.

(b) Deductions from the pay of an employee of a public agency for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

MEASURE READ THE FIRST TIME—S. 4088

Ms. HASSAN. Mr. President, I understand that there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The senior assistant legislative clerk read as follows:

A bill (S. 4088) to prohibit the Secretary of Health and Human Services from lessening the stringency of, and to prohibit the Secretary of Homeland Security from ceasing or lessening implementation of, the COVID-19 border health provisions through the end of the COVID-19 pandemic, and for other purposes.

Ms. HASSAN. I now ask for a second reading, and in order to place the bill

on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard.

The bill will receive its second reading on the next legislative day.

VETERANS RAPID RETRAINING ASSISTANCE PROGRAM RESTORATION AND RECOVERY ACT OF 2022

Ms. HASSAN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 4089, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (S. 4089) to restore entitlement to educational assistance under Veterans Rapid Retraining Program in cases of a closure of an educational institution or a disapproval of a program of education, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Ms. HASSAN. I further ask unanimous consent that the bill be considered read three times.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill was ordered to be engrossed for a third reading and was read the third time.

Ms. HASSAN. I know of no further debate on the bill.

The PRESIDING OFFICER. If there is no further debate and the bill having been read the third time, the question is, Shall the bill pass?

The bill (S. 4089) was passed, as follows:

S. 4089

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Veterans Rapid Retraining Assistance Program Restoration and Recovery Act of 2022”.

SEC. 2. RESTORATION OF ENTITLEMENT UNDER VETERANS RAPID RETRAINING ASSISTANCE PROGRAM.

(a) IN GENERAL.—Section 8006 of the American Rescue Plan Act of 2021 (Public Law 117-2), as amended by the Training in High-demand Roles to Improve Veteran Employment Act (Public Law 117-16), is further amended—

(1) by redesignating subsection (n) as subsection (o); and

(2) by inserting after subsection (m), the following new subsection (n):

“(n) EFFECTS OF CLOSURE OF AN EDUCATIONAL INSTITUTION OR DISAPPROVAL OF A PROGRAM OF EDUCATION.—

“(1) IN GENERAL.—Any payment of retraining assistance under subsection (d)(1) shall not be charged against any entitlement to retraining assistance described in subsection (a) if the Secretary determines that an individual was unable to complete a course or program of education as a result of—

“(A) the closure of an educational institution; or

“(B) the disapproval of a program of education by the State approving agency or the Secretary when acting in the role of the State approving agency.

“(2) PERIOD NOT CHARGED.—The period for which, by reason of this subsection, retraining assistance is not charged shall be equal to the full amount of retraining assistance provided for enrollment in the program of education.

“(3) HALT OF PAYMENTS TO CERTAIN EDUCATIONAL INSTITUTIONS.—In the event of a closure or disapproval, as described in paragraph (1), the educational institution shall not receive any further payments under subsection (d).

“(4) RECOVERY OF FUNDS.—In the event of a closure or disapproval, as described in paragraph (1), any payment already made under subsection (d) to the educational institution shall be considered an overpayment and constitute a liability of such institution to the United States.”.

(b) CONFORMING AMENDMENT.—In subsection (b)(3) of such section, strike the period and insert “, except for an individual described in subsection (n).”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the American Rescue Plan Act of 2021 (Public Law 117-2).

Ms. HASSAN. I ask unanimous consent that the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING THE LIFE, ACHIEVEMENTS, AND LEGACY OF THE HONORABLE MADELEINE K. ALBRIGHT

Ms. HASSAN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration and the Senate now proceed to S. Res. 585.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 585) honoring the life, achievements, and legacy of the Honorable Madeleine K. Albright.

There being no objection, the committee was discharged, and the Senate proceeded to consider the resolution.

Ms. HASSAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the motions to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 585) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in the RECORD of April 7, 2022, under “Submitted Resolutions.”)

NATIONAL OSTEOPATHIC MEDICINE WEEK

Ms. HASSAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 595, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The senior assistant legislative clerk read as follows:

A resolution (S. Res. 595) designating the week of April 18 through April 24, 2022, as “National Osteopathic Medicine Week.”

There being no objection, the Senate proceeded to consider the resolution.

Ms. HASSAN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and that the motions to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 595) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today’s RECORD under “Submitted Resolutions.”)

AUTHORIZING THE USE OF THE CAPITOL GROUNDS FOR THE NATIONAL PEACE OFFICERS MEMORIAL SERVICE AND THE NATIONAL HONOR GUARD AND PIPE BAND EXHIBITION

Ms. HASSAN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H. Con. Res. 74, which was received from the House and is at the desk.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The senior assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 74) authorizing the use of the Capitol Grounds for the National Peace Officers Memorial Service and the National Honor Guard and Pipe Band Exhibition.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Ms. HASSAN. I ask unanimous consent that the concurrent resolution be agreed to and the motion to reconsider be considered made and laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 74) was agreed to.

ORDERS FOR WEDNESDAY, APRIL 27, 2022

Ms. HASSAN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Wednesday, April 27; and that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and morning business be closed; that upon the conclusion of morning business, the Senate proceed to executive session to resume consideration of the Garnett nomination; further, that the cloture motions filed during yesterday’s session ripen at 3:30 p.m.; finally, that if any nominations